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IN THE

Supreme Court of the United States

OCTOBER TERM, A.D. 1970

No. 1137

FRANK TRIPLETT,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

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Petitioner Frank Triplett prays that a writ of certiorari issue to review the judgment of the Supreme Court of Illinois affirming the trial court conviction of attempt rape. At the time of trial the defendant was 16 years of age; at the time of the offense charged the defendant was 14 years of age. He was sentenced to a term of 4 to 10 years in the Illinois State Penitentiary.

REFERENCE TO REPORTS OF OPINION.

People v. Triplett, ... Ill. 2d ....., 263 N.E. 2d 24 (Sept. 1970), is attached as an Appendix.

STATEMENT OF JURISDICTIONAL GROUNDS.

The judgment of the Supreme Court of Illinois was entered on September 22, 1970. Jurisdiction of this Court is invoked under Title 28, U.S.C., Sec. 1257 (3).

QUESTIONS PRESENTED FOR REVIEW.

Since the State of Illinois had the benefit of a notice of alibi statute similar to *Williams* v. *Florida*, but the defendant in the State of Illinois did not enjoy reciprocal discovery concerning prosecution rebuttal evidence, the question raised is whether it was a denial of due process for a prosecutor, following the alibi testimony of the defendant and three alibi witnesses, to present a lady who testified to a separate offense of rape committed one hour before the offense charged, identifying the defendant as her rapist?

CONSTITUTIONAL PROVISION INVOLVED.

Fourteenth Amendment:

"... nor shall any State deprive any person of ... liberty, ... without due process of law: ..."

ILLINOIS STATUTE INVOLVED.

Illinois Revised Statutes, Chapter 38:

> 114—14. § 114—14. *Alibi Defense.*) Upon the request of the prosecuting attorney, filed and served upon a defendant not less than 10 days before the trial of such cause, whenever a defendant charged with an offense . . . proposes to offer in his defense, testimony to establish an alibi, such defendant shall, not less than 5 days before the trial of such cause, file and serve upon the prosecuting attorney a notice in writing of his intention to assert such alibi, which notice shall include specific information as to the place where the accused maintains he was at the time of the alleged offense and the names and addresses of the witnesses whom the defendant intends to call to establish such alibi defense. The defendant shall not be permitted to introduce evidence inconsistent with such notice unless the defendant establishes to the satisfaction of the court that witnesses to be called and not named in the notice were not known at the time such notice was filed or the court for other good cause permits the notice to be amended. In the event of the failure of a defendant to file written notice as required in this Section, the court may exclude evidence offered by the defendant for the purpose of proving an alibi, if it appears to the court that such evidence takes the State by surprise.
>
> . . . . .

STATEMENT OF THE CASE.

The defendant was 14 years of age when charged with attempt rape on October 18, 1967. The woman, Mrs. Bennie Walker, testified that about 2:00 p.m., an unknown individual came to her apartment and left within a few minutes. (A. 5-6)

Two plainclothes police officers patrolling in an unmarked police car had no knowledge of the above offense when they observed the defendant walking within a block or two of Mrs. Walker's apartment. (A. 13) The officers looked at the defendant and the defendant looked at them. Shortly thereafter the defendant started to run with the officers chasing him. The defendant proceeded across the street and was struck by a car. (A. 13) The defendant testified he ran because the policemen hollered, "Hey, nigger, stop." (A. 19)

The defendant was taken to a nearby hospital for first aid treatment. While at the hospital handcuffed, the complaining witness was brought to this same neighborhood hospital for sedatives by police. (A. 12, 14) At the hospital waiting room she identified the defendant. (A. 14)

The trial of the attempt rape case commenced November 13, 1968, over a year following the arrest of the defendant who remained incarcerated. The court appointed public defender presented the testimony of three alibi witnesses in addition to the testimony of the defendant. The alibi testimony established that at approximately the time of the offense charged he was in company with six neighborhood boys all his own age. (A. 15-22)

At the time of the offense charged, the prosecutors in the State of Illinois had the benefit of an Alibi Defense Statute, wherein the defendant was required on request of the prosecution to provide the names and addresses of all alibi witnesses and show exactly where the defendant contends he was during the period of the offense charged.

The prosecutor in his efforts to discredit the alibi defense presented one Judith Hochberg, age 35, who testified in the State's direct rebuttal examination how the defendant had raped her. (A. 23)

Mrs. Hochberg resided at 932 North Rush Street, about six blocks from 1156 North Dearborn, home of Bonnie Walker, the complaining witness in the instant litigation. Both apartments were dwellings in Chicago near north "Rush Street" entertainment district. Mrs. Hochberg testified in the direct examination that on October 18, 1967 she saw the defendant in her apartment at 1:00 p.m., and that he had remained until 1:30 to 1:40 p.m. (A. 25) Bonnie Walker had earlier testified the man who entered her apartment was there about 2:00 p.m. and left about 2:05 p.m. (A. 5, 8)

The defendant's alibi testimony covered the period from early morning until the moment of his arrest. The State's rebuttal witness, Mrs. Hochberg, testified that the defendant raped her in her apartment during the period 1:00 p.m. through 1:30 to 1:40 p.m. (A. 23, 25)

At trial the prejudice raised by the prosecutor intending to use the rebuttal witness was argued and the trial court allowed the State to present the rebuttal witness but not to have her recite the details of the occurrence. (Facts noted in Illinois Supreme Court opin-

ion.) Defense counsel felt the damage was done and allowed the details of the rape to be related to the jury. On appeal the Illinois Supreme Court passed on the issue but in light of established Illinois case law allowing a prosecutor to introduce evidence of other crime to disprove an alibi defense, the issue in Illinois was settled.

It is from this settled Illinois procedure allowing for the prosecutor to introduce evidence of other crimes is unfair to attack an alibi defense, since the Illinois statutory law allows for pretrial discovery to a prosecutor of defense alibi witnesses with specific information as to the time and place where the accused maintains he was at the time of the alleged offense.

The probative value of this procedure it was argued was insufficient to outweigh its inflammatory effect on the jury violative of due process of law. This same procedure has been followed previous to this case as well as subsequent cases, being now an established rule of Illinois procedure that evidence of other crime can be introduced to disprove an alibi defense. We urge this judgment be reviewed on writ of certiorari.

ARGUMENT FOR ALLOWING THE WRIT.

IT IS A DENIAL OF DUE PROCESS, FOR A PROSECUTOR WHO HAS THE BENEFIT OF AN ALIBI STATUTE PROVIDING FOR NOTICE IN ADVANCE OF TRIAL OF SPECIFIC INFORMATION AS TO WITNESSES AND WHERE HE WAS AT DURING THE TIME OF THE OFFENSE CHARGED, TO PRESENT AS A REBUTTAL WITNESS A PERSON WHO TESTIFIES TO ANOTHER OFFENSE UNRELATED TO THE OFFENSE BEING TRIED BEFORE A JURY.

In *Williams* v. *Florida*, 399 U.S. 78, 84 this Court said that because a State requires pretrial notice of alibi and the naming of alibi witnesses does not require the defendant to rely on an alibi defense at trial or prevent him from abandoning the defense.

What remains in the State of Illinois is an inappropriate choice for defense counsel to urge a defendant to either rely on the alibi defense at trial or abandoning the defense which would be inconsistent with the concept expressed in *Washington* v. *Texas*, 388 U.S. 14, urging that a defendant be allowed to present his version of the facts as being fundamental to due process of law.

Since a State prosecutor in Illinois may introduce evidence in rebuttal of an alibi defense of yet another crime to shore up the prosecution's case against the defendant, this chills the desire of any defense counsel or his client to introduce any alibi defense. Such a dilemma for defense counsel or the layman defendant is violative of due process and we urge that a review of this issue be allowed to examine the wisdom of such State criminal procedures.

In the recent Illinois case of *People* v. *Harris*, ... Ill. 2d ....., 263 N.E. 2d 35 (October 7, 1970), the Illinois Supreme Court in affirming a jury trial conviction from the very same judge who presided over the instant case, reviewed an issue raised at trial concerning the introduction of the other crimes issue. In affirming the *Harris* conviction the Illinois Supreme Court said (263 N.E. 2d at 37),

> "While ordinarily evidence of separate offenses unconnected with the crime for which a defendant is on trial is incompetent, evidence of other offenses may be introduced if it tends to identify the accused as the person who committed the crime under investigation and to disprove an alibi. *People* v. *Mikka*, 7 Ill. 2d 454, 461, 131 N.E. 2d 79; *People* v. *Walker*, 34 Ill. 2d 23, 29, 213 N.E. 2d 552; *People* v. *Tranowski*, 20 Ill. 2d 11, 169 N.E. 2d 347."

Under the facts of the instant case the State prosecutor was allowed the best of both worlds, for if the defendant did not testify the jury would be influenced by the defendant's absence from the witness stand. When the defendant did directly challenge the accuser's testimony before the factfinding jury as encouraged in *Washington* v. *Texas*, 388 U.S. 14, the prosecutor under Illinois law was allowed to introduce a witness to an unrelated offense. This certainly does not accord the accused in Illinois the fullest opportunity to present his best defense. This Illinois prosecutorial treatment only encourages defendants having an alibi defense to avoid taking the witness stand for fear the prosecutor will introduce other crimes in an effort to disprove the defense alibi case.

For either an accused or his counsel to make a choice between constitutional rights of presenting a defense and

considering waiver of the cross examination of the rebuttal witness concerning yet another crime is hardly a professional choice any lawyer appointed or retained would be pleased to make nor should he be required. However, here in Illinois such is the dilemma facing both court appointed and hired counsel.

This fourteen year old defendant was charged with the attempt rape of a woman named Bonnie Walker, who resided at 1156 North Dearborn in the near north area of Chicago. At trial Bonnie Walker testified that about 2:00 p.m., on October 18, 1967 an unknown individual came to her apartment, and within a few minutes left. (A. 5-6)

She called the police and shortly thereafter police officers arrived at her apartment. Meanwhile, about this time the defendant was walking in the neighborhood enroute to his home, when police officers in plain clothes and an unmarked car were on patrol and looked at the defendant, having no knowledge of the instant attempt rape offense concerning Bonnie Walker. (A. 13) At trial the defendant said he saw the two men looking at him and that one hollered, "Hey, nigger, stop." (A. 19) The defendant started running with the detectives in pursuit, when the defendant was then struck by an automobile. (A. 13) The defendant lived a few blocks away having resided in the neighborhood for six years. (A. 20)

The defendant was taken by the police to a nearby hospital for first aid treatment. While at the hospital handcuffed, Bonnie Walker was brought to the hospital according to the prosecutor for sedatives. (A. 12, 14) Although a motion to suppress her testimony was heard and denied, the Illinois Supreme Court dismissed this

hospital confrontation as being accidental and not in violation of constitutional lineup standards. At the hospital Bonnie Walker identified the defendant as the individual who attempted to rape her, while the defendant sat handcuffed alone in the hospital waiting room. (A. 14)

The defendant in a criminal trial is frequently forced to testify himself and to call other witnesses in an effort to reduce the risk of conviction. In Illinois at the time of the commencement of this prosecution and for over a year previous, the State of Illinois required the defendant to produce to the prosecutor upon demand in advance of trial in writing showing the defense intention to assert an alibi defense which by statute required specific information as to the place where the accused maintains he was at the time of the alleged offense as well as the names and addresses of the witnesses whom the defendant intends to call to establish such alibi defense. The defense in Illinois is not permitted to introduce evidence inconsistent with such notice. *Ill. Rev. Stat.*, Ch. 38, Sec. 114-14.

This investigative tool certainly allowed the State sufficient leads to conduct an independent investigation to establish either the truth of the alibi or incriminating rebuttal evidence to disprove the alibi testimony in the absence of resorting to yet another criminal offense. Such a dilemma in Illinois of requiring a choice between complete silence to reduce the probability the State prosecutor will find some complaining witness to sufficiently identify the defendant as her assailant or of presenting an alibi defense. This pressure generated by the Illinois law is severe and does vitiate the defendant's choice to present an alibi defense along with witnesses to prove it

knowing of the great risk the prosecutor will interject another offense resulting in catastrophe for the defendant before the jury.

During the trial of this attempt rape charge which commenced November 13, 1968, over a year following the arrest of the defendant, while the defendant remained incarcerated. The court appointed public defender presented the testimony of three alibi witnesses including the testimony of the defendant. The alibi testimony established that at the time of the offense charged the defendant was 14 years of age and never had experienced any acts of sexual intercourse; that on the date of the offense charged he was in company with six neighborhood boys all his own age. (A. 15-22) All the boys went to school early that morning of October 18, 1967 and later the six boys decided to ride the "El" (Chicago's elevated public transportation).

Several hours later three of the boys assembled at a restaurant several blocks from their home near the "El" train stop. (A. 16, 18, 20, 22) The other boys separated about 2:15 to 2:30 p.m. The defendant was chased by the detectives within two blocks of this restaurant located near the home of Bonnie Walker.

The State cross examined the three defense witnesses and the defendant but made no effort to talk to the other three teenage boys. The remaining three boys were part of the group of six boys in company with the defendant throughout the morning hours and afternoon hours on the date of the offense charged until moments before the defendant's arrest about 2:30 p.m.

The law providing for notice of alibi does accommodate the interest of the State in making a case, yet by allow-

ing evidence of separate offenses unconnected with the crime for which this defendant was on trial, certainly is prejudice which outweighed the evidentiary value to the State.

The prosecutor in his efforts to discredit the alibi defense made no effort to locate other witnesses, but instead presented one Judith Hochberg, age 35, who testified in the State's direct examination in rebuttal of the alibi testimony, that she resided at 932 North Rush Street, (About six blocks from 1156 North Dearborn, home of Bonnie Walker), both locations being apartment dwellings in Chicago's "Rush Street" entertainment district. Mrs. Hochberg testified in the direct examination that on October 18, 1967 she saw the defendant in her apartment, wearing a grey sweater, at 1:00 p.m. (The offense charged occurred at 2:00 p.m. the same date; the alibi testimony covered the morning and afternoon period.) Mrs. Hochberg testified in detail on direct examination how the man who attacked her was the defendant who had intercourse with her after she removed her clothes. (A. 23-24) She described how the intercourse and penetration occurred in her bed in the bedroom. (A. 24) She testified the defendant took about 20 to 22 dollars in Kennedy half-dollars from her home and departed about 1:30 p.m. to 1:40 p.m. (A. 24-25, 31) The defendant had no such money when chased by the police.

The defense cross examination showed how Judith Hochberg had described the person who had raped her as wearing a red shirt. A police officer who testified for the State in corroboration of Mrs. Hochberg's on cross examination testified that Mrs. Hochberg prior to the arrest of the defendant told Officer McCracken that the

person who raped her was wearing a red shirt. (A. 27) During the trial this woman, Mrs. Hochberg testified the defendant was wearing a green flannel shirt, which happened to be the color of shirt the defendant was wearing when arrested. (A. 24) However, during the cross examination she admitted to defense counsel that she had told police officers following the rape that the man was wearing a red shirt. (A. 26) Mrs. Hochberg's testimony was that she described the shirt as red to police officers instead of green because she was upset. (A. 26)

This illustrated how the only manner of affecting Mrs. Hochberg's testimony was to cross examine and allow the jury to recognize she was mistaken in identifying the defendant as her rapist. However, the jury verdict may have been affected adversely by this testimony of another possible offense being charged against the defendant.

The defense objected to this trial testimony and the trial judge ruled that the prosecutor could present the testimony that the defendant had attacked her in her apartment during the time the defendant's evidence showed him in company with his teenage friends. The trial judge advised that the State's rebuttal witness need not testify as to the details of the attack; however, defense counsel felt the prejudice resulting from this testimony alone outweighed any damage that could be done relating the particulars.

Merely to allow the prosecutor to present a witness on rebuttal as was suggested by the trial judge in this case without allowing for meaningful cross examination of the witness would be inconsistent with constitutional

standards. *Brookhart* v. *Janis*, 384 U.S. 1. Only through effective cross examination of the witness Mrs. Hochberg would the defense have an opportunity not only of testing the recollection and sifting the conscience of Mrs. Hochberg, in order that the jury may looked at this witness and judge by her demeanor upon the stand and the manner in which she gives her testimony whether she is worthy of belief. *California* v. *Green*, 399 U.S. 149, 181.

For defense counsel not to cross examine such a prosecution rebuttal witness as was suggested in this case would be trial tactics tantamount to defeat and admission of guilt either for the substantive offense being tried or the inference raised by the rebuttal witness that the defendant was responsible for still another crime.

The State of Illinois by allowing evidence of another crime to be introduced to assist the State in their theory of disproving an alibi defense should not be allowed under the facts of this case without unconstitutionally restricting the right of the accused to challenge the attempt rape charge with his supporting witnesses. The present Illinois procedure prejudices the accused by adversely affecting the factfinding jury who must determine his guilt or innocence.

We therefore urge this judgment be reviewed on writ of certiorari.

CONCLUSION.

The petitioner prays that your Honors will consider his complaint to be of sufficient magnitude to warrant this Court's review since a substantial question of constitutional dimension is involved warranting consideration.

Respectfully submitted,

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December 18, 1970

APPENDIX

Opinion Of The Supreme Court Of Illinois

Docket No. 42113—Agenda 12—May, 1970.

THE PEOPLE OF THE STATE OF ILLINOIS, Appellee, *vs.* FRANK TRIPLETT, Appellant.

Mr. CHIEF JUSTICE UNDERWOOD delivered the opinion of the court:

Defendant John Triplett was convicted of attempted rape in a 1968 Cook County circuit court jury trial, and was sentenced to a term of four to ten years imprisonment. In this direct appeal, he questions the admissibility of the complaining witness's in-court identification and also claims that he was not proved guilty beyond a reasonable doubt; particularly, that the State failed to prove the essential element of intent to commit rape.

The complaining witness first testified in the course of a pretrial hearing on defendant's motion to suppress her in-court identification, and, following a denial of the motion, she testified at trial. She stated that a Negro youth appeared at her second floor apartment at about 2:00 P.M. on October 18, 1967, and said he was collecting for her newspaper subscription. She explained that she did not take the newspaper, and the young man then left for a short time. He returned with a phone number for her to call to discuss the mixup; she made the call but it was not the newspaper office. The young man left again, ostensibly to check the number with his supervisor downstairs. He returned to tell her the supervisor would be up to talk with her shortly, and

then he began to leave. The complainant left the door ajar and had returned to her housework when she heard her infant daughter scream. She turned and saw the young man holding the baby with a broken bottle at her face. He told complainant to take off her clothes or he would cut the baby. When the complainant objected, he threatened "you know I can use this baby too." She moved quickly toward him, and he fled. She became hysterical, but managed to call the police a short time later. When two uniformed officers arrived, she gave a description of the young man, and was taken to a nearby hospital. As she entered the hospital waiting room with the two officers, she saw the intruder and identified him. He was then in the custody of two plainclothes officers. She also saw him shortly thereafter at the police station. Defendant was brought before her in court, and she again identified him as the intruder. She stated that she would have recognized defendant in court without having seen him at the hospital or the police station.

Defendant and three friends testified to an alibi, claiming they had been riding the elevated trains and eating lunch at the time in question. In rebuttal, the State presented the testimony of a woman who stated that defendant had attacked her in her apartment during the time he claimed to be with his friends. The judge instructed her not to recite the details of the occurrence, but the defense urged the court to let her proceed, saying the jury ought to hear her full story. She then revealed that defendant had threatened her baby with an iron bar and a scissors, and had said that if she refused to submit to intercourse, he could use the baby. She submitted, after which defendant removed over twenty dollars in coins from her piggy bank and fled. When the State examined the police officer who inventoried de-

fendant's belongings after his arrest, the defense successfully objected to questioning about items other than clothing taken from him. The defense stipulated that defendant's fingerprints appeared on the piggy bank, but defendant claimed he had handled the bank at the police station. A police lab technician rebutted this explanation, however, stating, that he had taken the bank directly from the apartment to the lab, where he discovered the prints.

The arresting officers testified they spotted defendant while looking for a young Negro male fitting the description given by the rape victim. He fit the description as to height, weight and clothing, and fled as they approached him. They gave chase, and defendant was hit by a car as he ran across LaSalle Street. They caught him and took him to the nearby hospital for treatment and examination. He had been treated for a cut when the complainant was brought in for treatment, and the confrontation was entirely coincidental. One of the officers who brought complainant to the hospital also stated that the confrontation was unplanned.

The defendant argues on appeal that his alibi, supported by three witnesses, established reasonable doubt as to his guilt. However, the credibility of witnesses is a matter for the trier of fact; if believed, the positive testimony of the complainant and the testimony presented to rebut the alibi are sufficient to remove all reasonable doubt. (*People* v. *Gray*, 33 Ill. 2d 349; *People* v. *Carpenter*, 28 Ill. 2d 116; *People* v. *Solomon*, 24 Ill. 2d 586.) Defendant argues further that there was no proof of an intent to commit rape, since it was not shown that he explicitly stated such an intention to the complainant. While proof of the specific intent to commit rape is essential, intent may be inferred from

the circumstances of an assault. (*People* v. *Hiller*, 7 Ill. 2d 465; *People* v. *Marino*, 388 Ill. 203; *People* v. *Garafola*, 369 Ill. 232.) The jury could reasonably conclude that defendant's threat to "use" complainant's infant daughter if complainant refused to co-operate, was indicative of an intention to have intercourse. This conclusion was reinforced by the testimony of the State's rebuttal witness, that defendant raped her following her submission to a similar threat. Defendant suggests on appeal that this testimony as to a previous crime was improper. However, there was no objection at trial; in fact, when the court limited her testimony to rebuttal of defendant's alibi, it was at the urging of the defense that she was permitted to amplify upon the circumstances of the rape. We conclude there was ample evidence properly before the jury to prove beyond a reasonable doubt that defendant acted with the intention of committing the crime of rape.

Defendant contends that the complainant's in-court identification of defendant was improperly allowed, since she had previously viewed him at the hospital and at the police station in unnecessarily suggestive circumstances, at which times defendant was without counsel. The State replies that the hospital confrontation was entirely coincidental, and therefore there was no "show-up" as proscribed by the *Wade*, *Gilbert* and *Stovall* decisions. (*United States* v. *Wade*, 388 U.S. 218, 18 L. Ed. 2d 1149, 87 S. Ct. 1926; *Gilbert* v. *California*, 388 U.S. 263, 18 L. Ed. 2d 1178, 87 S. Ct. 1951; *Stovall* v. *Denno*, 388 U.S. 293, 18, L. Ed. 2d 1199, 87 S. Ct. 1967.) It is also suggested that the confrontation would have been justified even if planned, since prompt identification was necessary to determine whether

an immediate and exhaustive search for complainant's assailant should be undertaken. (*People* v. *Young*, ... Ill. 2d .....; *People* v. *McMath*, 45 Ill. 2d 33, 36; see also, *Bates* v. *United States* (D.C. cir. 1968), 405 F. 2d 1104.) This exception to the *Stovall* doctrine is also urged as a valid exception to the stricter requirements of *Wade-Gilbert*. (See, *e.g.*, *Russell* v. *United States* (D.C. cir. 1969), 408 F. 2d 1280, *cert.* denied 395 U.S. 928, 23 L. Ed. 2d 245, 89 S. Ct. 1786; *United States* v. *Davis* (2d cir. 1968), 399 F. 2d 948, *cert.* denied 393 U.S. 987.) However, appropriate as these observations may be, they are no answer for the later confrontation at the police station.

We might well conclude that the hospital identification was entirely coincidental and spontaneous since all the evidence and testimony points to that conclusion, and only sheer speculation suggests otherwise. In that event, the identification would be an ideal one, unquestionably free of the suggestiveness to which the *Stovall* doctrine is directed. The subsequent police station confrontation would not appear to be significant under *Stovall*, following such a positive prior identification. And, in any event, the ultimate question posed by the United States Supreme Court in the *Wade-Gilbert-Stovall* decisions, whether the in-court identification was reliably predicated upon an observation independent of the challenged in-custody confrontations, was resolved by the hearing on defendant's motion to suppress the identification. The complainant there related the circumstances in which she first encountered the defendant. It is clear that she had an excellent opportunity to observe him at her home, and form an accurate, reliable basis for subsequent identification. When she next saw defendant at the hospital, without any expectation that she would confront

him there, she identified him unhesitatingly and spontaneously. Furthermore, she was confident that she would be able to identify defendant on the basis of the 15-20 minute observation at her home, even if she had not seen him briefly on the two subsequent occasions. We note also that her initial description of the intruder to the police conformed in every respect with his appearance when arrested. The only reasonable conclusion, based upon all these factors, is that the in-court identification stemmed from an origin independent of the in-custody confrontations. The identification clearly satisfies the ultimate constitutional requirements for admissibility.

The judgment of the circuit court of Cook County is accordingly affirmed.

Judgment affirmed.